

IN THE
Supreme Court of the United States

OCTOBER TERM, 1943.

No. 154.

ANDERSON NATIONAL BANK, Suing on Behalf of Itself and
All Others Similarly Situated, *Appellants*,

v.

H. CLYDE REEVES, Individually and as Commissioner of
Revenue of the State of Kentucky, Etc., Et Al.,
Appellees.

Appeal from the Court of Appeals of the State of Kentucky.

**BRIEF OF THE COMPTROLLER OF THE CURRENCY
AS AMICUS CURIAE.**

✓ JOHN F. ANDERSON,
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Comptroller of the Currency.*

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Come now Preston Delano, Comptroller of the Currency of the United States, and, by leave of Court first had and obtained, respectfully submits his brief, as amicus curiae, in support of the appeal filed in this court by the Anderson National Bank in the above entitled cause.

I.

Foreword.

Appellants' "Statement as to Jurisdiction" covers this court's jurisdiction, the Federal questions raised, the State statutes involved and the citation of opinions below and consequently reference is here made to the same in the interest of avoiding repetition.

II.

Reasons Urged by the Comptroller of the Currency in Support of the Appeal of the Anderson National Bank.

The Court of Appeals of Kentucky has held in this case that a State may take inactive deposit accounts from a National bank without notice to the owners, suit or judicial decree. This decision involves substantial questions of public interest that directly affect the rights and deposit contract obligations of all National banks in Kentucky and indirectly affect all National banks wherever located because of the trend toward similar State legislation.

National banks are quasi-public institutions in *service*, and are instrumentalities of the Federal Government in *origin*, notwithstanding the fact that they are private corporations in *ownership*. As of December 31, 1942, there were 5087 going National banks carrying deposits of \$50,648,816,000.00 (page 48, Annual Report of the Comptroller of the Currency to Congress, rendered January 6, 1943). The operations and functions of these banks, their maintenance as going institutions, and the protection of their deposits, are matters of general public interest and are of vital importance not only to the Federal Government in connection with its fiscal operations but to millions of citizens of this country who have depositary or other relations and dealings with them. The Comptroller of the Currency is charged by law with the examination and supervision of the operations and functions of these going banks and with the enforcement of the law pertaining thereto.

The Court of Appeals of Kentucky has decided a Federal question of substance in a way probably not in accord with the applicable decisions of this court in *National City Bank of New York v. People of the Philippine Islands*, (1937) 302 U. S. 651, and *First National Bank of San Jose v. State of California*, (1923) 262 U. S. 366. The decision of the court below appears to be in conflict in principle with the decisions of the United States Circuit Courts of Appeal in *Starr v. Schram*, (C. C. A. 6, 1941) 118 F. (2d) 548, certiorari denied 314 U. S. 695, and *In re Commercial National Bank of Philadelphia*, (C. C. A. 3, 1943) 134 F. (2d) 172, wherein Receivers of insolvent National banks, acting under the Comptroller's direction, successfully resisted attempts by the States of Michigan and Pennsylvania to seize inactive deposits in their banks.

III.

CONCLUSION.

The Comptroller of the Currency therefore earnestly urges this honorable court to review the decision of the Court of Appeals of Kentucky in the instant case.

Respectfully submitted,

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*Attorney for Preston Delane,
Comptroller of the Currency.*